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FEDERAL ELECTION COMMISSION
999 E Street, NW
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

CELA

MUR: 6837

DATE COMPLAINT FILED: June 2, 2014

DATE OF NOTIFICATION: June 10, 2014

LAST RESPONSE RECEIVED: July 1, 2014

DATE ACTIVATED: September 9, 2014

EXPIRATION OF SOL: May 28, 2019

ELECTION CYCLE: 2014

COMPLAINANT:

Jesse Bohman, Campaign Manager for the Committee
to Elect Stephen A. Labate, Inc.

RESPONDENTS:

Grant Lally for Congress and Christopher Nolan in
his official capacity as treasurer

**RELEVANT STATUTE
AND REGULATON:**

52 U.S.C. § 30124¹

11 C.F.R. § 110.16

INTERNAL REPORTS CHECKED:

None

FEDERAL AGENCIES CHECKED:

None

I. INTRODUCTION

Complainant alleges that Grant Lally for Congress ("Committee") violated 11 C.F.R.
§ 110.16 by soliciting funds based on a fraudulent representation that Nassau County Executive
Ed Mangano had endorsed Grant Lally in the Republican primary election in the Third
Congressional District of New York. Because Mangano is not a federal candidate, the
prohibition on fraudulent representation does not apply here.

¹ On September 1, 2014, the Federal Election Campaign Act of 1971, as amended (the "Act"), was transferred from Title 2 to new Title 52 of the United States Code.

II. ANALYSIS

The Act and Commission regulations prohibit any person from fraudulently misrepresenting the person as speaking for or on behalf of any candidate or political party or employee or agent thereof for the purpose of soliciting contributions or donations. 52 U.S.C. § 30124(b)(1) (formerly 2 U.S.C. § 441h(b)(1)); 11 C.F.R. § 110.16(b)(1). The Act and the regulations also prohibit candidates and their employees or agents from fraudulently misrepresenting themselves, or any other organization under the candidate's control, as speaking or otherwise acting on behalf of any other candidate or political party on a matter which is damaging to such other candidate or party. 52 U.S.C. § 30124(a)(1) (formerly 2 U.S.C. § 441h(a)(1)); 11 C.F.R. § 110.16(a)(1).

These provisions apply to a person fraudulently misrepresenting that such person is speaking on behalf of a *federal* candidate.² Additionally, the term "candidate" means "an individual who seeks nomination for election, or election, to *Federal* office."³ Mangano is a local elected official and is not a federal candidate, and thus neither provision of section 30124 (formerly section 441h) applies to the Committee's conduct, even if the allegations are true.

Accordingly, we recommend that the Commission find no reason to believe that Grant Lally for Congress and Christopher Nolan in his official capacity as treasurer violated 52 U.S.C. § 30124 (formerly 2 U.S.C. § 441h).

² See Explanation and Justification for 11 C.F.R. § 110.16, Disclaimers, Fraudulent Solicitation, Civil Penalties, and Personal Use of Campaign Funds, 67 Fed. Reg. 76,962, 76,968 (Dec. 13, 2002) (noting that section 30124(b) (formerly section 441h(b)) "prohibits a person from fraudulently misrepresenting that the person is speaking, writing or otherwise acting for, or on behalf of, a *Federal* candidate or political party, or an employee or agent of either, for the purpose of soliciting contributions or donations." (emphasis added)).


³ 52 U.S.C. § 30101(2) (formerly 2 U.S.C. § 431(2)) (emphasis added).

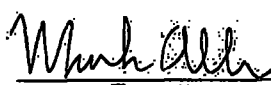
III. RECOMMENDATIONS


1. Find no reason to believe that Grant Lally for Congress and Christopher Nolan in his official capacity as treasurer violated 52 U.S.C. § 30124 (formerly 2 U.S.C. § 441h).
2. Approve the attached Factual and Legal Analysis.
3. Approve the appropriate letters.
4. Close the file.

Date

10/10/14


Daniel A. Petalas
Associate General Counsel


Mark Allen
Acting Assistant General Counsel


Delbert K. Rigsby
Attorney